company's obstruction, a wire fence, with steps over, except that a barbed wire extended above, was free from contributory negligence, held, under the evidence, a question for the jury.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. § 371; Dec. Dig. § 114 (4).* 11 Va.-W. Va. Enc. Dig. 553.]

4. Trial (§ 54 (1)*)—Reception of Evidence—Effect of Admission.—A deed admitted in evidence being properly admissible to show how defendant acquired its right of way, and the consequent relation of the parties, was properly in evidence for consideration for all purposes.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 126; Dec. Dig. § 54 (1).* 5 Va.-W. Va. Enc. Dig. 316.]

Error from Circuit Court, Wise County.

Action by W. M. O'Neil against the Louisville & Nashville Railroad Company. Judgment for plaintiff, and defendant brings error. Affirmed.

R. T. Irvine, of Big Stone Gap, for plaintiff in error.

A. N. Kilgore, of Wise, for defendant in error.

STUART et al. *v.* MEADE.

Sept. 11, 1916.

[89 S. E. 866.]

1. Adverse Possession (§ 66 (2)*)—What Constitutes—Notice.—Landowners erected a division fence under an agreement that neither party should have any advantage over the other by reason of the fence not being on the true line, and that when it should be reset it should be placed on the true line. The fence was not on the true line, and defendants' grantor was given possession of land belonging to plaintiff's grantor. Held, that as the occupancy of their grantor and of defendants themselves was begun in privity with the true owner, a higher degree of notoriety was necessary than in ordinary cases for it to become adverse.

[Ed. Note.—For other cases, see Adverse Possession, Cent. Dig. §§ 378-383; Dec. Dig. § 66 (2).* 1 Va.-W. Va. Enc. Dig. 205.]

2. Adverse Possession (§ 66 (2)*)—What Constitutes—Notice.—In such case, the fact that the defendants' grantor whose agent, the husband of one of the defendants, had managed the land for many years, transferred it to defendants will not enable defendants' subsequent possession to ripen into adverse title; there being no notice to the adjoining landowner that the nature of the possession had changed.

[Ed. Note.—For other cases, see Adverse Possession, Cent. Dig. §§ 378-383; Dec. Dig. § 66 (2).* 1 Va.-W. Va. Enc. Dig. 205.]

---

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

3. Adverse Possession (§ 66 (2)*)—What Constitutes—Title.—Where a division fence gave defendants and their grantor land belonging to the adjacent proprietor, but defendants and their grantor intended to claim only to the true line, their possession of land belonging to the adjacent proprietor was not adverse, and could not ripen into title.

[Ed. Note.—For other cases, see Adverse Possession, Cent. Dig. §§ 378-383; Dec. Dig. § 66 (2).* 1 Va.-W. Va. Enc. Dig. 205.]

Error to Circuit Court, Russell County.

Ejectment by D. C. Stuart and others against Emily J. Meade and others. There was a judgment for defendants, and plaintiffs bring error. Reversed and remanded.

W. W. Bird, of Lebanon, and *Jno. J. Stuart,* of Abingdon, for plaintiffs in error.

H. A. Routh, of Lebanon, for defendants in error.

DICKENSON *v.* SCOTT et ux.

Sept. 11, 1916.

[89 S. E. 869.]

Specific Performance (§ 126 (2)*)—Nature of Relief.—Where rights of contracting parties are settled by the contract, the court in decreeing specific performance thereof must conform to such contract conditions; and to impose different terms or materially depart from the contract to the purchaser's detriment is error.

[Ed. Note.—For other cases, see Specific Performance, Cent. Dig. § 401; Dec. Dig. § 126 (2).* 12 Va.-W. Va. Enc. Dig. 584.]

Appeal from Circuit Court, Washington County.

Suit by H. H. Scott and Wife against B. E. P. Dickenson. Decree for complainants, and defendant appeals. Modified and affirmed.

John W. Neal, of Abingdon, for appellant.

L. P. Summers, of Abingdon, for appellees.

RIZZLE *v.* DAVIS.

Sept. 11, 1916.

[89 S. E. 870.]

Ejectment (§ 111 (4)*)—Verdict—Evidence.—Code 1904, § 2739, provides that plaintiff in ejectment may recover any specific share in the premises, though less than he claimed in the declaration. Section 2746 provides for verdict generally if plaintiff proves right to all the

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.